

**REMARKS**

Claims 1-4, 6, 8-11, 13, 15-18, 20, 22 and 23, all the claims pending in the application, stand rejected. Claims 1, 8 and 15 are amended. New claims 24-26 are added.

***Claim Rejections - 35 U.S.C. § 103***

**Claims 1-4, 6, 8-11, 13, 15-18, 20 and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fongeallaz (5,186,460) in view of Filiczkowski (5,106,098) and Nakagawa et al (EP 0757917).** This rejection is traversed for at least the following reasons.

**The Invention**

The invention of claim 1 is directed to a computerized game system with a racing field formed on a board and comprising a plurality of tracks concurrently existing on the board on which the running models can run. The claim requires a physical passageway formed between the plurality of concurrently existing tracks so that the running model can enter and exit between the tracks and the same running model can run on races on the plurality of tracks. Claim 1 has been amended to recite that the ability parameter of a running model is changed according to a movement of the running model from one of the plurality of tracks (e.g., dirt) to another of the plurality of tracks (e.g., turf) through the physical passageway. This feature clearly is not taught in the prior art or obvious in view of the prior art.

The feature is supported by the disclosure at pages 8-12 and 19-23 where the assignment of ability parameters to individual running models, including parameters related to the type of track, and the use of a passageway to permit the running models to change tracks and, thus, the applicable ability parameter, is described. In particular, the disclosure at page 8 teaches that the ability parameters include a group of multidimensional parameters (stamina, speed, running ability) are given to a racehorse. Also, it is taught that each of these parameters changes in accordance with a given environment, such as a running environment. The running environment includes the type of track, as explained at pages 10-13, and the effect on the racehorse abilities is also described. The passageway between the two distinct running environments of a dirt track and a turf track is described at page 11, and the movement of a single racehorse between those two environments, with the accompanying change in ability parameters, is taught through page 12 and at pages 21-22.

### **Patentability of Claimed Invention**

The present invention, as defined in amended claims 1, 8 and 15, is patentable for several reasons:

First, Fongeallaz et al does not teach a plurality of concurrently existing tracks and that it is incompatible with a plurality of concurrently existing tracks.

Second, Filiczkowski provides no teaching relevant to a modification of Fongeallaz and that neither reference provides any motivation for their combination, as Fongeallaz et al is a computerized game system while Filiczkowski is a manual board game.

Third, the claims require a physical passageway between the plurality of tracks.

Fourth, as noted above, the ability parameter of a running model is changed according to a movement of the running model from the environment of one of the plurality of tracks (e.g., dirt) to the environment of another of the plurality of tracks (e.g., turf) through the physical passageway.

This combination provides a clear basis for the patentability, even when considering the newly cited reference to Nakagawa for a teaching of a physical passageway having a purpose of transporting the running model from one area of the field to the track. Based on the claim, as now amended, a player can clearly recognize that a setting of race is changed by virtue of the movement of running model from one of the tracks to another. Thus, the player can plot strategy based on the setting of the race. None of the cited reference discloses the newly added feature.

### **Nakagawa et al**

The Nakagawa et al reference concerns a game machine in which moving objects resembling race horses, etc., are caused to compete in running a simulated race on a playing area resembling a racing track or field. In particular, the game includes a plurality of race courses 5a, 5b, as illustrated in Figs. 1 and 2. Notably, the two courses are not concentric, but the course 5a is a shortened version of the course 5b, and the two tracks share a common track portion. Thus, the type of track (turf vs. dirt, etc.) represented by the two tracks must be the same.

In framing the rejection, the Examiner notes, in particular, that the paddock 6, which is presented in a fragmentary enlarged view in Fig. 3, has a pair of passageways 63a, 63b for connecting the track and paddock 6 at the outermost ends of the first starting gate 7a and the

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second starting gate 7b. The Examiner asserts that the simulated horses H are physical embodiments, as illustrated in Fig. 5, and that the passageway necessarily is a physical passageway for transporting the horses H to the track area for a race.

However, Applicants respectfully submit that in Nakagawa, the movement from one track to the other is not by way of a passageway. Instead, the purposes, the movement of a running model from a waiting area to the race area. Indeed, there is no need for movement from one track to another since the tracks 5a and 5b share the same starting gate.

Finally, Applicant respectfully submits that no reference teaches the further added feature of a passageway for conveying a running model from one concurrently existing racetrack to another, where the running model can be moved from one type of track in which the running model has a first current ability parameter to a second track where the running model's current ability parameter may have a different compatibility with the second track. The claim clearly indicates that the running model runs based on a current ability parameter in accordance with the respected tracks. Thus, the use of a physical passageway presents a significant feature of the game that is not taught by or even obvious from the teachings of any of the cited prior art.

Independent claims 8 and 15 have been amended in a manner similar to claim 1, and would be patentable for the same reasons, as presented herein.

Applicants note that claim 22 already specifies two different types of tracks in which the conditions of the tracks can be adjusted. The ability to adjust the condition of a track is not taught in any reference. This claim would be patentable for this reason and the reasons previously given in earlier amendments.

**Claim 23 is rejected under 35 U.S.C. §103(a) as being unpatentable over Fongeallaz (5,186,460) in view of Filiczkowski (5,106,098) and Nakagawa et al (EP 0757917), and further in view of Ikeda et al (6,371,854).** This rejection is traversed for the reasons given in the Amendment filed on October 6, 2003. In short, the deficiencies of the Fongeallaz and Filiczkowski patents and Ikeda patent as identified previously, are not remedied by Nakagawa et al.

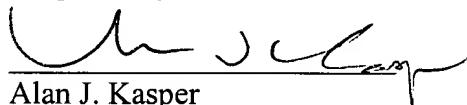
Finally, new claims 24-26 are added to specifically define the tracks in each of claims 1, 8 and 15 as having a different surface.

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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